CH 004 (3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

Writ Petition No. 3037 of 2003

PETITIONER:

Alha Ram Sahu
S/o Shri Parkhit Sahu,
Aged about 40 years,
R/oVillage Kapartunga,
Block Baramkela,
Tehsil Sarangarh,
Distt. Raigarh (C.G.).

P. R. No. 2866/03
Presented by Shri U.R. Tiwari
dated 19.09.03

- Versus -

RESPONDENTS:

1. JanpadPanchayat, Baramkela,
Through: Its Chief Executive
Officer, at Baramkela,
Dist.Raigarh (C.G.).

2. Gram Panchayat, Kapartunga,
Through Its Secretary,
Block:Baramkela, Dist. Raigarh
Chhattisgarh.

शपथ आयुक्त
आर.के. शुक्ला
19/9/03
नगर तहसील

CERTIFIED COPY

WRIT PETITION UNDER ARTICELS 226/227 OF THE CONSTITUTION OF INDIA.

XI-HC-22

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.NO.3037/2003 **सन् 200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

21.09.2006

Shri S.R.J. Jaiswal, counsel for the petitioner.

Ku. Sharmila Singhai, counsel appears on behalf of Shri Ranbir Singh Marhas, counsel for the respondents.

Heard finally with the consent of the parties.

Order dictated as follows:

Oral Order

The brief facts are that this petitioner was appointed as Panchayat Karmi of Gram Panchayat Kapartunga prior to 25.08.2003. On some alleged irregularities committed by him, he was served with show-cause notice by Gram Panchayat. It is stated that he did not reply to the said notice and thereafter, a meeting of Special Gram Sabha was conducted on 28.08.2003 and in the said meeting, the petitioner was removed from the post of Panchayat Karmi/Secretary by Gram Sabha and an order to this effect was issued by the Sarpanch. The document Annexure-P/1 would show that after such removal of the petitioner, the Sarpanch wrote a memo to the Chief Executive Officer informing removal of the petitioner from the said post.

Learned counsel for the petitioner argues that since the removal from the post of Panchayat Karmi/Secretary is a major penalty as defined under Rule 5 of the M.P. Panchayat Service (Discipline and Appeal) Rules 1999, therefore, without following the procedure laid down under Rule 7 of the aforesaid Rules, an order of removal would not have been passed. He submits that the Gram Panchayat was not competent to pass such an order and

देखिये)

(67)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P.No. 3037/2003 **सन्** 200

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

only the steps could have been taken by the Gram Panchayat. He further submits that the order of removal of the petitioner was not supplied to him, therefore, the same has not been filed in this case. He also submits that the subject matter of this petition is squarely covered with the decision rendered in the matter of ***Prakash Chandra Patel –vs- State of Chhattisgarh and others, reported in 2004 Law Times (C.G.) Pg. 142*** and the Division Bench decision of this Court in W.P. No. 1656/2006 and also in Single Bench decision of this Court in W.P. No. 2356/2004.

Though the return has not been filed but Ku. Singhai does not dispute the above facts and legal position.

Considering the facts and circumstances of the case, this petition is allowed in terms of the orders passed in above writ petitions. The removal of the petitioner from the post of Panchayat Karmi/Secretary by Gram Panchayat, the reference of which is there in order contained in Annexure-P/1 is quashed. The consequence of quashment of removal shall be followed.

However, if so required, the State authorities shall be free to initiate the disciplinary proceeding against the petitioner in accordance with the provisions of the Rules of 1999 referred to above. No order as to costs.

Sd/-
Sunil Kumar Sinha
Judge

(पीछे देखिये)

26.9.06 21.11.06